Programs Branch

User Report

REVIEW OF THE CONSULTATIVE PAPERS ON THE IMPACT OF THE YOUNG OFFENDERS ACT ON NATIVE JUVENILES

NO. 1984-80

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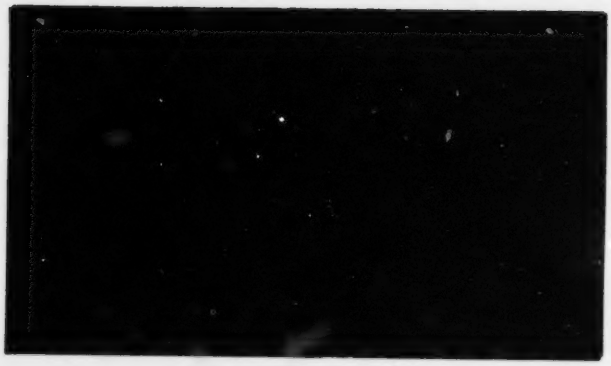

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REVIEW OF THE CONSULTATIVE PAPERS ON THE IMPACT OF THE YOUNG OFFENDERS ACT ON NATIVE JUVENILES

NO. 1984-80

This working paper was prepared under contract in July 1984 for the Research Division, Ministry of the Solicitor General of Canada, and is made available as submitted to the Ministry.

This working paper is available in French. Ce document de travail est disponible en français.

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ABSTRACT

This report, prepared under contract for the Ministry of the Solicitor General, presents a summary and review of 11 consultative papers related to the impact of the Young Offenders Act on Native youth. Most of the papers were written by Native organizations.

The papers raise many issues and concerns currently being addressed by Native organizations, and a few present specific recommendations. Many of the issues and recommendations are specific to the new Young Offenders Act; while others are more generally concerned with difficulties experienced by Native youth in this country. This report summarizes the issues and recommendations outlined in the consultative papers according to those that are specific to the YOA and those that are more general.

Based on the information contained in the consultative papers, the authors of this report have developed a priorized list of further research and program needs. An annotated bibliography on Native youth and the justice system is included.

INTRODUCTION

During the decade of consultation between the federal government and community groups on replacing the Juvenile Delinquents Act, several Native groups prepared papers and documents addressing the proposed legislative changes. The process intensified with the passing of the Young Offenders Act (1982). Some provincial governments also encouraged community groups to respond with suggestions regarding implementation of the Act.

At this stage in the implementation process, it would be useful to collect, identify and summarize the issues and concerns raised by Native groups regarding the implications of the Young Offenders Act for Native youth. The purpose of this report is to review the literature developed by Native groups during the consultation process, and identify possible future research and program directions based on the concerns and recommendations presented therein.

Three salient concerns emerged from our review of the consultative papers. The first is the critical need for education concerning Native people and the law. This includes both community education about the YOA and its implications, and more general education pertaining to the operation of the courts, the legal system, and the legal rights and obligations of Native Canadians. At the same time, education is an urgent requirement for agents of the justice system (such as judges, duty counsel) regarding the social conditions, cultural values and traditions of Native people. Education in these areas can become the first step towards overcoming the deep mistrust which often exists between Native communities and the courts, and which might impede the full involvement of Native communities in the spirit of the YOA.

The second significant concern is finding ways to facilitate the court process for young Native offenders. Since Native people often face particular disadvantages vis-à-vis the court process which non-Natives might not encounter, some form of advocacy is essential for young Native people in conflict with the law. A Native

Courtworker model, adapted to the special needs of young offenders in youth courts is suggested almost universally in the consultative papers.

Funding is the third cardinal concern. Resources are essential for education, services, and to develop and maintain the community-based alternatives provided for in the YOA. If these are not widely available, and equally accessible to all young offenders, the implementation of the YOA will provide little opportunity for reducing the disproportionate numbers of young Native people involved in the criminal justice system.

Due to time constraints (20 days), limits were imposed on the collection of materials. This report reviews primarily those materials already collected by the Research Division, Ministry of the Solicitor General of Canada. Some limitations should be pointed out at the outset. Papers reviewed in this report do not represent all regions of Canada; neither do they represent responses from all types of Native organizations. Most of the papers reviewed aim to promote discussion, rather than communicate the findings of the research. The bias in the literature surveyed may be due to some unevenness in the original collection of materials by the Ministry. However, a preliminary enquiry by the authors revealed a paucity of research and discussion papers in this area. Many Native organizations do not seem to have yet prepared written responses to the Young Offenders Act.

Nevertheless, the papers reviewed in Part I of this report are a rich source of background information regarding the potential implications of the Young Offenders Act as perceived by Native organizations. The papers raise both general and specific issues regarding Native youths and juvenile justice. Recommendations are made in a number of papers, based on the special circumstances and needs of Native youth in conflict with the law. Issues and recommendations presented in the consultation papers are summarized in Part II for possible research and program development directions in relation to Native young offenders. These are presented in Part III of this report.

PURPOSE AND METHODOLOGY

PURPOSE

It is the purpose of this report to identify and review existing literature that addresses the impact of the Young Offenders Act on Native youth. Major issues raised in the literature are extracted and summarized. Specific recommendations found in the consultative papers are summarized. Those recommendations which fall under the mandate of the Young Offenders Unit, Ministry of the Solicitor General are identified.

Based on the issues and recommendations identified in the literature, the authors present a priorized list of suggested research program directions. An annotated bibliography is included.

METHODOLOGY

1. The authors consulted with Carol LaPrairie, Fern Jeffries, Margaret Horn and Susan Christie (Ministry of the Solicitor General) regarding the direction and purpose of this project.
2. Nine consultative papers on the impact of the Young Offenders Act on Native youth were made available by the Research Division of the Ministry of the Solicitor General. These included five papers from Ontario, two national papers, one paper from the Northwest Territories, and one paper from Alberta.
3. Selected Native organizations and officials were contacted to solicit material on the subject.
   The short time allotted to the contract, combined with a paucity of written documents specific to the topic, limit the amount of additional material collected. Contacts and enquiries yielded two additional items: one from Ontario, and one from the Northwest Territories.
4. Collected materials were read and analyzed. A review of each item was prepared.

5. Issues and recommendations were identified from the material reviewed. These were categorized and summarized.
6. The recommendations were further grouped (according to guidelines provided by Ms. Fern Jeffries, Young Offenders Unit, into YOA-specific, and more general recommendations.
7. A priorized listing of recommendations for further research and program directions was prepared by the authors of this report.
8. An annotated bibliography was prepared containing the literature reviewed and some closely related material.

NOTE: TERMINOLOGY

The various papers reviewed do not give consistent meaning to the many designations for Native people. In order to minimize confusion, the authors have standardized the terms in this review.

Indian is only used to refer to people who are recognized as "Indians" in the meaning of the Indian Act.

Non-status Indians are people of Indian ancestry who have not had, or who have lost their status of "Indian" as defined by the Indian Act.

Métis are people of mixed Native and non-Native ancestry who identify themselves as Métis.

The term Native is used to include all people of indigenous origin, whether they be status or non-status Indians, Métis or Inuit.

PART I: REVIEW OF THE LITERATURE

OVERVIEW

Eleven papers are reviewed in the following section. These are consultative rather than research papers. They do not attempt to present baseline information, nor to answer any questions about Native youth in conflict with the law. They vary greatly in purpose. Some aim to disseminate basic information about the Young Offenders Act; some to raise questions and present issues for discussion by an organization; some to develop a position and influence the development of legislation or programs. Only three contain separately listed recommendations, although suggestions are made within the bodies of all the papers.

The papers reviewed are not representative of all types of Native organizations; neither do they represent all regions of Canada. Only two are national in scope. One survey by the National Aboriginal Justice Council predates the drafting and passing of the YOA and is, therefore, of limited application at this stage, although it raises some important general concerns. The second consists of Part I of an uncompleted three-part study by Nahwegahbow and Brant. Since it is incomplete, it contains no recommendations, but raises some significant concerns and issues specific to the Young Offenders Act in relation to status Indian youth.

Out of six Ontario papers, five are the product of the Ontario Native Council of Justice. One of these (Loucks and Timothy:1981) is based on a survey of representatives from the Ontario Native community. Its purpose is to generate internal discussion on a wide range of child-welfare issues, and includes some concerns regarding the Young Offenders Act. Loucks (1982) presents a report based on a larger survey responding to issues and questions raised by the Ontario government about its implementation plan for YOA. The recommendations made by the O.N.C.J., based on the above report, are included in a later paper (Loucks: 1983 b). The most recent paper is based on a

survey to identify the needs of various organizations (members of the Council) for education about YOA, and program development is its primary focus. Jolly (1983) reports an analysis of secondary data on child welfare and juvenile justice, collected prior to the implementation of the YOA in a "fact-sheet" format.

The Native Canadian Centre of Toronto is the only other Ontario source. Their paper consists of a needs assessment (based on a survey of the Native Toronto community involved in justice issues) regarding the anticipated impact of the YOA on court services and procedures. Based on the survey results, the N.C.C.T. projects ways they might respond to anticipated needs through the existing courtworker program.

The single paper reviewed from Alberta is a brief presented to the Committee on Justice and Legal Affairs by the Native Counselling Services of Alberta. The N.C.S.A. makes recommendations based on their own experience and positions, with the aim of influencing the development and implementation of the then-proposed legislation.

Two papers are included from the Northwest Territories, both written by individuals rather than organizations. Smith (1984) presents a brief report on his attendance at a conference, relaying some of the general issues that were discussed regarding the YOA. Miller (1984) has written a legal review of specific sections of the YOA with regard to the right to counsel. This is placed in the context of the Northwest Territories justice system and the needs of northern Native youth.

Assessing Methodologies Used

It is difficult, and perhaps not entirely appropriate, to attempt a serious critique of the methodologies used in the 11 papers. Although most of the authors provide some description of what they wanted to accomplish and the steps they took in gathering information, very little detail is included, especially regarding bases for analysis of the information presented. Without such details, it is difficult to evaluate the suitability of the approaches used. Most of the papers which include presentation of actual data relied on qualitative data obtained through surveys

and interviews, sometimes combined with some analysis of secondary quantitative data.

However, most of the papers do not present the results of serious research. Rather, they intend to either disseminate information about the YOA, promote discussion, or influence governments in its implementation. Detailed methodologies are not necessary in this context.

TITLE:

YOUTHFUL OFFENDERS PROJECT

AUTHOR:

Canadian Aboriginal Justice Council (formerly the Federal Advisory Council on Native People and the Criminal Justice System). Coordinated by William T. Badcock.

PREPARED FOR:

Internal distribution.

FUNDED BY:

Department of Health and Welfare, National Native Alcohol Abuse Program.

DATE:

1978

LENGTH:

21 pages, plus 36 pages of appendices.

BACKGROUND:

After a workshop held in 1977, the Canadian Aboriginal Justice Council decided to seek funding for a project on juvenile justice. They had been informed that the federal government would introduce legislation in 1978 to replace the Juvenile Delinquents Act. The Council felt that Native people should have the opportunity to comment on legislation that would affect their children. A proposal requesting funds was submitted to the Departments of Health and Welfare and Justice.

PURPOSE:

To elicit comments on the proposed legislation from the Native community.

METHODOLOGY:

Material was sent out to all status and non-status Indian organizations, friendship centres, cultural/educational centres and women's organizations. The material gave an overview of the proposed changes from the Juvenile Delinquents Act to the Young Offenders Act, and requested comments from the organizations. Very few replies were

received. The researchers then spoke with groups and individuals across the country. At this point, the researchers learned that the low response to the mailed material was not due to lack of interest, but to a general lack of awareness and knowledge about the Juvenile Delinquents Act and the proposed legislation. They therefore had to provide some general information and education to each group prior to soliciting comments.

The researchers met with groups and individuals in the Yukon (16), British Columbia (7), the Northwest Territories (4), Saskatchewan (4), Manitoba (4), Ontario (14), Quebec (13), Labrador (2), and New Brunswick (5). Groups consulted included local legal aid services, Métis and non-status associations, Native courtworkers, friendship centres, women's groups and community associations.

SUMMARY OF CONTENT:

The paper contains a written report of each of the consultations, including a summary of the groups' comments and their recommendations. While each group emphasized different concerns, their general reactions were very similar. Most of the groups expressed dissatisfaction with the government's failure to inform them on matters of juvenile justice, and expressed little confidence in their ability to have any effect on upcoming legislation.

TITLE:

C-61 THE YOUNG OFFENDERS ACT-- NATIVE ISSUES: AN OVERVIEW-- PART I (DRAFT)

AUTHORS:

Dave Nahwegahbow and Daniel Brant, Indian Consulting Group

FUNDED BY:

Ministry of the Solicitor General of Canada

DATE:

None

LENGTH:

48 pages

BACKGROUND:

None provided. Parts II and III not completed.

PURPOSE:

The paper is intended as an overview of issues raised by Bill C-61, the YOA.

METHODOLOGY:

The authors do not describe their method. However, it is clear that they consulted some secondary sources (e.g. LaPrairie 1982), and material on Native justice programs (e.g. Alberta Native Counselling Services). They reviewed the YOA proposals in light of the Indian Act. This is a draft of Part I of a three-part study.

SUMMARY OF CONTENT:

This paper is general and national in scope. It focuses primarily on the anticipated impact of the YOA on status Indians.

The following topics are covered: consultation; education; structural discrimination; Indian government; jurisdiction; legal status and reserve location; funding; departmental roles; statistics; children under 12; offences excluded from the YOA; truancy; alternative measures; legal representation; detention prior to disposition; youth court; youth workers; medical and psychological assessment; and dispositions. Each topic is addressed under the headings of background and issues.

This paper is strong in identifying the implications of divided provincial and federal jurisdictions. It outlines the effect of jurisdictional disputes on various categories of Native youths (status, on/off-reserve, non-status, Métis). The impact of relevant sections of the Indian Act, (e.g. section 88) are discussed in relation to various aspects of the YOA.

TITLE:

JUSTICE-RELATED CHILDREN AND FAMILY SERVICES FOR NATIVE PEOPLE IN ONTARIO. A DISCUSSION PAPER.

AUTHORS:

Bryan Loucks and Arnette Timothy, Native People's Resource Centre.

PREPARED FOR:

Ontario Native Council on Justice

FUNDED BY:

Not specified.

DATE:

December 1981 (Revised)

LENGTH:

57 pages, plus 6 appendices including: an 8-page bibliography organized by topic area; the U.S.A. Indian Child Welfare Act; the "By-Law for the Care of our Indian Children", passed by the Spallumcheen Indian Band of British Columbia.

BACKGROUND:

A number of recent events contributed to the Ontario Native Council of Justice's decision to commission these papers. These events included: the implementation of a Family Courtwork Program in Ontario; the development of Ontario's corporate policy regarding Aboriginal people; the passing of the federal Young Offenders Act and the provincial Omnibus Bill on Children's Services; and the reorganization of the Native Council of Justice itself. The O.N.C.J. felt the time was appropriate for Ontario Native people to consider child welfare and juvenile justice issues. It wished to explore stands and actions which could be taken by the Council.

PURPOSE:

This is an internally directed document intended to generate discussion within the O.N.C.J. Members were asked to determine how, where and if the Council should become involved in the areas of child welfare/juvenile justice policy and program development.

METHODOLOGY:

Literature was reviewed from a variety of sources, and information compiled for a brief statistical profile of the young Native population of Ontario. Relevant legislation was summarized.

Forty-one interviews were carried out with Native and non-Native Ontario residents. Interviews were selected on the basis of their experience. The researchers attempted to ensure representation from a cross-section of organizations. These included federal and provincial government departments (including Solicitor General and Ministry of Community and Social Services of Ontario), Native organizations and universities.

No detail is provided in the paper regarding the proportion of Native and non-Native respondents, the interview process, interviewers, the specific questions, or the interview schedules.

The researchers compiled the responses and identified issues which had surfaced in the interviews. Based on these, questions were developed for the Council membership to consider.

SUMMARY OF CONTENTS:

Overall, this paper accomplishes its objectives: it provides a basis for informed discussion about possible directions organizations might choose to intervene in policy and program planning in the areas of child welfare and juvenile justice. It presents sufficient background on most issues, with additional material available in appendices and a thorough bibliography.

Much of the material relates to child welfare in Ontario (though comparisons are made to innovative approaches in British Columbia and the United States). An adequate summary of the basic provisions of the YOA is presented and potential benefits for Native youth are clearly identified. The paper emphasizes that resources are needed for these advantages to materialize.

Included are many examples of programs being developed and implemented by Native organizations in the fields of child welfare and youth. These could be used as ideas or models by any organization involved in the issues of child welfare and juvenile justice.

The recommended areas for research are clear; six are specifically related to YOA. Unfortunately, they do not appear to be priorized.

The topics of jurisdiction and legislation are addressed in some detail. The paper contains a brief review of the history of the debate between provincial and federal authorities surrounding financial responsibility for services to status Indians. Problems such as the serious lack of adequate services to on-reserve Indian children; the over-representation of Indian children in certain areas of the system; and inadequate service delivery to off-reserve, non-status and Métis families and children are all identified. Gaps in jurisdiction, combined with poverty, local conditions, and poor front-line service skills are the suggested causes.

The jurisdictional debate will escalate with the possible inclusion of Aboriginal rights in the Constitution, and with Ontario's development of a policy statement regarding Aboriginal rights. Recently, Indian bands are moving towards increased community control of social services. A number of initiatives are cited briefly, including: the Tripartite Task Group on Social Services; a plan towards "community-based, Indian determined, Indian specific and Band controlled social services"; and the 1980 Spallumcheen Band By-law giving exclusive jurisdiction for many child-welfare issues to the Indian Band. It is suggested that Native organizations and leaders must decide if children's and family services are a priority, and if these areas could, or should be used to further the struggle for self-determination.

Two significant pieces of proposed legislation (Omnibus Bill for Children's Services and the Young Offenders Act) are summarized and their implications for Native peoples pointed out.

A summary is given of the YOA's basic provisions, focusing on changes from the philosophy of the Juvenile Delinquents Act, and dispositions available under the YOA. Positive developments for Native youth are anticipated regarding:

- predisposition assessments, if provided with the aid of Native courtworkers or Native probation and after-care officers;
- more flexible dispositions if community youth services are available;
- advocacy by Native courtworkers, who could inform Native youth and parents about their rights and freedoms under the Act, and facilitate access to legal representation and youth services.

However, a concern is expressed that most Native communities lack the resources to provide the necessary services. Questions are raised about the most effective means for Native groups to have impact on the development of YOA policy. For example, is it possible or desirable to include within Ontario's implementation plan a facet to sensitize justice personnel to the special needs of Native children and families?

The advantages and problems of legislation similar to the U.S.A. Indian Child Welfare Act and the Tribal Court system are explored. Questions are raised about the resources and institutions which would be required to implement similar legislation in Canada.

The paper raises important questions about services to Native children, which also apply to issues related to the YOA. For example:

- is it appropriate to consider transfer of certain judicial functions to Native courts?
- should bands have a right to intervene in proceedings involving band children?
- could a lay panel system be used to assist the court?
- who will provide resources, not only for services, but also to ensure proper consultation is carried out with Native people to maximize their input into legislation, policy, planning and implementation of programs?

TITLE:

PRELIMINARY RESPONSE TO THE ONTARIO CONSULTATION PAPER ON IMPLEMENTING BILL C-61, THE YOUNG OFFENDERS ACT

AUTHOR:

Bryan Loucks

PREPARED FOR:

Ontario Native Council on Justice

FUNDED BY:

Ministry of the Attorney General (Ontario)

DATE:

July 1982

LENGTH:

49 pages, plus an appendix listing innovative approaches to justice-related services in Ontario.

BACKGROUND:

The Ontario Native Council of Justice is taking a more active role in Native youth justice issues, to identify problems, propose solutions and help develop policy in this area. Their response to the Ontario Consultation Paper is part of a long-term process begun in 1981 to study justice-related children and family services for Native people in Ontario.

PURPOSE:

To raise some issues and concerns facing young Native people and their communities, for consideration by O.N.C.J. members. To provide a basis for sound planning and decision-making, by both Native communities and government.

METHODOLOGY:

Documents prepared by government and Native associations were reviewed, and preliminary consultations with government and Native organizations were held. A cross-section of individuals from the Six Nations Band and the Peterborough area were consulted to identify their concerns regarding areas mentioned in the Ontario consultation paper. Based on the preliminary stages of the project, three priority areas for investigation and a list of possible interviewees were identified by the Council Management

Committees. The researcher carried out four weeks of intensive interviews and meetings, with two groups and 58 individuals, 75 percent of whom were Native. The sample was selected on subjective criteria: (a) recommendations by others in the field; (b) practical experience; (c) functional responsibilities; and (d) accessibility. The opinions of the interviewees were summarized and presented in a format suitable for further discussion. The methodological approach appears well suited to this type of discussion paper.

SUMMARY OF CONTENTS:

Overview

The paper begins with a summary of Bill C-61, The Young Offenders Act. Three focus areas are selected from the Ontario Consultation Paper for discussion: in-court representation and procedures; dispositions; and prevention/diversion. The main emphasis is on development of programs and jurisdictional disputes.

The paper includes lists of contact people as well as brief descriptions of 26 innovative projects and programs in justice-related services for native people in Ontario, which could be a useful resource.

Some factors which might limit the wider use of this paper include the little distinction made between status and non-status people; and the lack of gender or regional breakdowns in statistics.

Profile of Native Young Offenders in Ontario

The following facts and figures are presented in the paper:

- Native people are 2 percent of the total Ontario population;
- Seven (7) percent of all male admissions to Ontario correctional facilities under age 18 are Native;
- Twelve (12) percent of all female admissions to Ontario correctional facilities under age 18 are Native;
- Ten (10) percent of 12-15 year-olds under probation supervision in Ontario are Native;

- Thirty-seven percent of recidivist Native inmates were first convicted as juveniles, at average age of 16.5 years;
- over 50 percent of Native young offenders had lived in foster homes prior to training schools; the typical Native young offender experiences poverty in the community of origin, several white foster homes, unstable family background, little knowledge and involvement with Indian culture and society, and alienation from mainstream society;
- an estimated 2.8 million dollars per year will be required to handle young Native offenders of 16 and 17 years of age in Ontario.

ISSUES AND CONCERNS:

This very detailed section forms the body of the paper, and summarizes the results of the interview process under each of the three topics. Concerns about in-court representation and procedures included the involvement of parents, relatives and community in the youth court; barriers to access; fair and equal treatment; legal counsel; Native awareness training for officers of the youth court; courtworker programs; north/south, rural/urban disparities; development of a Native justice system.

Concerns about dispositions included the apprehension that, unless substantive work is done in the implementation of the YOA, the alarming over-representation of Native young offenders will continue. Public education and development of community awareness, policies and practices of court-related support services, residential sentencing alternatives, jurisdictional and political issues, various alternative programs, training, hiring Native people, and research were other areas of concern.

Regarding prevention/diversion, it was felt that only prevention at the community level would really work to alleviate young Native offenders' problems; therefore, prevention and diversion should be an integral part of implementation of the YOA.

An enormous gap in services is identified which requires careful coordination, planning and resource development. No recommendations were made in the paper, this being beyond its mandate.

TITLE:

OUR CHILDREN ARE HURTING. FACT SHEET ON THE DISPROPORTIONATE INVOLVEMENT OF INDIAN YOUNG PEOPLE IN THE JUVENILE JUSTICE AND CHILD WELFARE SYSTEMS OF ONTARIO.

AUTHOR:

Stan Jolly

PREPARED FOR:

Discussion paper for the Ontario Native Council on Justice.

FUNDED BY:

Not specified.

DATE:

February 1983 (draft)

LENGTH:

11 pages; references 1 page.

BACKGROUND:

The Ontario Native Council on Justice has been developing material on youth and justice as the basis for a response to implementation of the YOA.

Their work on the YOA falls within broader O.N.C.J. goals of developing justice policy regarding Native people, identifying problems, proposing solutions and promoting research in these areas.

PURPOSE:

To document the overdistribution of status Indian youth in the juvenile justice and child welfare systems in Ontario, in order to promote discussion and suggest alternatives to reduce this problem.

To identify special need areas and high-risk groups to help direct limited resources efficiently.

METHODOLOGY:

Generally, the methodology appears adequate. The population is well-defined, and the author clearly identifies limits. Data were obtained from records of the Child Advocacy Information System, Ministry of Community and Social Services of Ontario (COMSOC), 1982. There is no specific information on how these data were collected, or analyzed by COMSOC.

The data gathered from COMSOC were used to compare numbers and percentages of Indian and non-Indian youths in a variety of institutional settings.

"Youth" was defined as people under 20 years of age. "Indian youths" were defined as those whose parents resided on a reserve listed in the Municipal Code Book. This excluded as many as one-third of status-Indian youths; all non-status and Métis youths; and several other categories of Native youths which, in combination, outnumbers status youth.

Information was available on young people who: had been dealt with by Provincial Court (Family Division); were on probation; had been admitted to a detention or observation facility; had been placed in the care of a Children's Aid Society.

SUMMARY OF CONTENTS:

This Fact Sheet presents a useful summary of some basic comparative data regarding over-representation of Indian children in both the child welfare and justice systems.

The study identifies the significance of regional and age-group variations, and thus could be useful for guiding funding and research in areas which are experiencing the most severe problems with over-representation.

The study only examined a small and defined population in Ontario. No gender-stratified data is included. The following findings are presented:

- status-Indians under 20 years of age, with on-reserve parents constituted 0.7 percent of the population of Ontario under 20 years of age in 1978;
- on-reserve status-Indian youths are overrepresented in all the levels and facilities attached to the justice and child-welfare systems;
- regional variations are marked. The Districts of Kenora and Manitoulin are identified as high priority areas, with significantly greater over-representation at all levels;
- specific reserves are identified as high-risk environments for young people, including Grassy Narrows, Moose Factory, Wikwemikong and Islington;

- Indian youth enter the justice system earlier than their non-Indian counterparts. Certain age groups are especially vulnerable to apprehension by the Children's Aid Society and/or conflict with the law.

TITLE:

"THE INNER CIRCLE"--STAFF DEVELOPMENT AND COMMUNITY EDUCATION AND YOUNG OFFENDERS ACT BILL C-61.

AUTHOR:

Bryan Loucks

PREPARED FOR:

Ontario Native Council on Justice

FUNDED BY:

Ministry of the Solicitor General of Canada

DATE:

April 1983

LENGTH:

23 pages, plus 13 appendices (approximately 110 pages)

BACKGROUND:

The Ontario Native Council on Justice has been developing material in relation to the impact of the Young Offenders Act on young Native offenders since 1981. They have identified staff development and community education, among other program needs.

PURPOSE:

To develop an integrated plan for staff development and community education about the YOA that will meet the specific needs of Ontario Native people.

To formulate a timetable and general methodology for a community education and staff development project, including a detailed plan and budget for submission to the Council, Consultation Centre, Ministry of the Solicitor General and provincial agencies.

METHODOLOGY:

The material presented in this paper was developed in five weeks through active consultation with a number of Native organizations--O.N.C.J. members in Kenora, Timmins, Thunder Bay, Delaware and Toronto.

Appointed staff people or representatives responded to a preliminary draft which included considerations, possible objectives and methodology regarding staff development and community education. Each association made suggestions,

identified their own perceived needs, target areas, and stage of development. Based on these, the author developed project plans for discussion with each association. These project plans were revised after further consultation with association staff.

The process of consultations yielded a list of possible resource people who may be useful to the project, and detailed plans for community education and staff development for each member association.

This approach (a qualitative methodology of informal community consultation) may, or may not reveal all concerns, or cover all viewpoints and political considerations. But these are relatively minor limitations in the context of this not being primarily a research paper, but rather a report of a project which was meant to develop programs for community education and staff development.

The project seems to have accomplished its objectives producing detailed project plans to a stage where they could easily be developed into specific funding proposals.

SUMMARY OF CONTENTS:

The report covers both status and non-status concerns. It includes some basic information about Bill C-61, and a statistical introduction to the young Native offender in Ontario (similar to other papers prepared by the O.N.C.J. and reviewed above).

The Council's member associations agree that cooperative planning and action are required to solve the problems of Native youth. The limited time and resources available for this phase of the project did not permit an integrated approach at this stage. Some difficulties were encountered in this area, including:

- each organization has different mandates, priorities, areas of jurisdiction;
- none have staff specifically to work with youth and justice-related activities;
- cooperation with the province requires time to work out political and jurisdictional concerns, especially between status and non-status Native organizations.

Therefore, each association developed a separate plan (see below). These reflect the different stages that various associations and communities have reached in their approach to YOA programming. The context in which various associations envision programs for Native young offenders is also revealed (for example Nishanwbe-Aski and Grand Council Treaty Number 3 see this as a step towards greater self-determination and control over their own lives, communities and legal affairs). The eight plans fall into four general phases or combinations of phases described below:

Developmental phase--Grand Council Treaty Number 3 and Nishnawbe-Aski identify the need for more consultation (a workshop) prior to developing more concrete plans.

Association leadership--most feel the leadership should receive a presentation regarding the YOA and the community education project, using O.N.C.J. resource people to respond to questions and concerns, and to give advice regarding project activities.

Staff training--some associations plan to include staff in the above, or to have separate staff development workshops, focusing on fairly technical legal issues for people who would be acting as legal resource people.

Community resources--the Ontario Native Women's Association plan includes a workshop for development of community resource people, which is contingent on funding for prior stages; without this final stage, they feel, the purpose of the YOA Community Education Project is brought into question for it will have only reached staff and association leadership people without making it possible for these to have an impact on the community itself.

Each association's plan, including resource people, locations, job descriptions, main concerns, target groups and objectives is included in the appendices. The appendices are a very valuable resource for contacts or information about Ontario Native organizations. They also include the following items:

- a plan of Native Law Students' Association for studying legal implications of Bill C-61;
- lists of Native child welfare prevention programs, and alcohol and drug prevention programs;
- names of Native probation and aftercare officers;
- lists of cultural resource people, and community newsletters.

TITLE:

THE YOUNG OFFENDERS ACT: AN OPPORTUNITY FOR A NEW BEGINNING

AUTHOR:

Bryan Loucks

PREPARED FOR:

Ontario Native Council on Justice

FUNDED BY:

Ministry of the Attorney General (Ontario)

DATE:

March 1983

BACKGROUND AND PURPOSE:

The O.N.C.J. has been developing material on issues related to juvenile justice since 1981 (see above reviews).

METHODOLOGY:

See page 16, Preliminary Response to the Ontario Consultation on Implementing Bill C-61.

SUMMARY OF CONTENTS:

This paper consists of a document prepared in 1982 and recommendations made by a working group on Young Offenders (revised and adopted by the Ontario Native Council on Justice, February 15, 1983) based on the Preliminary Response to the Ontario Consultation Paper on Implementing Bill C-61, The Young Offenders Act (reviewed above).

The first section is a slightly amended version of the 1982 document. The only significant addition is one page on "Cultural Continuity" which is considered an important factor in prevention and diversion strategies and programs. It is emphasized that the YOA should not be an obstacle to the movement towards cultural continuity that is developing in many communities. It is suggested that the implementation of the YOA can, ideally, encourage and strengthen this movement.

Ten (10) essential and 13 important recommendations are made by the O.N.C.J., based on the process of internal consultation and discussion documented in the above reviews. These recommendations are summarized and included in Part II of this report.

TITLE:

TYE YOUNG OFFENDERS ACT: IMPLICATIONS OF, AND A VIABLE MODEL FOR THE NATIVE COMMUNITY IN TORONTO

AUTHOR:

Native Canadian Centre of Toronto

PRESENTED TO:

Ministry of the Solicitor General of Canada

FUNDED BY:

Ministry of the Solicitor General of Canada

DATE:

June 27, 1983

LENGTH:

13 pages, plus approximately 110 pages in appendices. The largest appendix is the report of a York University study done for N.C.C.T., entitled Impact of the Young Offenders Act on the Native Community in Toronto, which includes an annotated bibliography. The other appendices contain: position descriptions of researcher/analyst and juvenile courtworker; and a description of a training program for courtworkers.

BACKGROUND:

The Native Canadian Centre of Toronto has been providing services for 20 years to migrating and urban Native people. Its courtworker program dates since 1964, and currently there are three courtworkers in adult provincial courts. In 1979, an inmate liaison program was developed with three provincial institutions. This program promotes public education and support groups for inmates returning to the community. The Centre is also involved in race relations activities in the community and has on-going liaison with the police. There is a network of complementary programs and services, such as liaison with community social service agencies; referrals, a pre-school; children's and youth programs; and counselling services. The Centre has a strong sense of Native culture and identity, operating on the principle of prevention through cultural pride and activities.

PURPOSE:

To identify the potential impact of the Young Offenders Act on the Native community in Toronto;

To assess service needs regarding young Native offenders in Toronto;

To develop a viable model of a Juvenile Courtworker Program for the Native community in Toronto.

METHODOLOGY:

The N.C.C.T. reviewed and summarized available data on Native juvenile offenders, and then commissioned York University's Native/Canadian Relations Theme Area to conduct a survey of the impact of the Young Offenders Act on the Native community of Toronto. They used the findings of the York University study to assess services required by Native young offenders in Toronto and determine which ones could be provided by the Native Canadian Centre.

The York University study used a networking approach to gather qualitative data from interviews with 70 respondents involved in services to young Native offenders. Six questions were asked, three regarding the YOA's impact, and three regarding the Native Criminal Courtworker model. A content analysis was performed for each response, and frequencies were calculated.

SUMMARY OF CONTENTS:

An overview of the YOA briefly outlines the differences in philosophy between the Juvenile Delinquents Act and the new YOA, and points out the significant changes brought in by the YOA in the areas of rights, diversion, responsibility, and protection. Questions are raised regarding the effectiveness of the Act in meeting stated objectives, and the ability of the justice system to provide necessary resources for effective alternatives in treatment of the young offender.

The paper includes a summary of the existing data on Native people and the criminal justice system which reveals the overwhelmingly disproportionate involvement of Natives, including young offenders. The following facts and figures are presented:

- juvenile delinquency rates are 353/100,000 for status-Indian youth, compared to 128/100,000 nationally;
- only 15 percent of status-Indian youth are let off with a warning, compared to 46 percent nationally;
- 6 percent of all male admissions between 16-25 were Native; in Ontario, 17 percent of all female admissions 16-25 were Native.

The results of the York University study indicate that most respondents were familiar with YOA, and almost three-quarters felt it would have a significant impact on the Native community in Toronto. They expressed concerns regarding the nature of such impact. For example, it was feared that the YOA might have a negative impact on young Native offenders. Native youths are likely to come into contact with YOA more frequently than non-Native youths, they may be charged more frequently, and may be held in custody longer to make financial restitution.

Most respondents were familiar with the Native courtworker program, and almost three-quarters felt it was the most appropriate prototype for meeting the needs of Native juveniles under the YOA. A holistic approach was widely recognized as most useful. Such an integrated approach would provide for legal education for young people; family counselling; diversion programs to reduce the number of youths in conflict with the law; and post-trial alternatives of a remedial nature to replace training schools and jails.

A Native youth courtworker program would require more funding; specialized training; more staff and resources; ways to constructively involve families; and community and professional education.

The N.C.C.T. recognizes two basic areas of need. The first is to provide service to those who must stand trial. For this, a courtworker program model is suggested as the key to ensuring Native youth are not denied their rights due to lack of information or support. The second is to develop a longer term approach to prevention and/or diverting youth from the justice system. The paper then describes a proposed two-pronged approach to meeting the needs of young Native offenders. One aspect is

development/action research to meet some immediate needs while developing, assessing and analyzing the need for on-going services and support. The second consists of the Native courtworker component. This model has consistently been shown to have positive impact on the contact between Natives and the justice system, and is a simple yet efficient response by the Native community.

Evaluation will be required for both approaches, and requires that qualitative information be gathered systematically and be used to track the experience of Native youth in the new system, identifying potential areas for more intervention by the N.C.C.T. An implementation plan, and staff job descriptions for the proposed program are also included.

TITLE:

BRIEF TO THE COMMITTEE OF JUSTICE AND LEGAL AFFAIRS CONCERNING THE PROPOSED YOUTHFUL OFFENDERS ACT

AUTHOR:

Native Counselling Services of Alberta

PRESENTED TO:

Committee of Justice and Legal Affairs

FUNDED BY:

Not specified.

DATE:

November 6, 1981

LENGTH:

15 pages, plus an appendix consisting of the N.C.S.A. 1979/80 Annual Report. Includes one page of references, a one-page executive summary, and a one- page summary of recommendations.

BACKGROUND:

The Native Counselling Services of Alberta is a non-political, non-religious, non-profit, native-run organization funded by a variety of federal and provincial departments and private bodies. For 10 years, it has developed and operated programs designed to fill gaps in legal and social-service delivery to the Native people of Alberta. The organization's objective is "to gain fair and equitable treatment for Native people involved with the legal system". N.C.S.A. provided input over the 10-year consultation process which preceeded the development of Bill C-61; this brief is another effort in this direction.

PURPOSE:

To provide input to criminal justice staff charged with implementing YOA legislation; to comment on the possible effects that the YOA may have on the Native community; and to make recommendations regarding the implementation of the YOA.

METHODOLOGY:

Not applicable.

SUMMARY OF CONTENTS:

This was the only brief regarding the YOA from a Native organization presented to the Committee of Justice and Legal Affairs.

The brief focuses on the Alberta situation, but makes some comparisons and extensions to all of Canada. Some significant points include the following:

- although a basic profile of the young Native offender in Alberta is not available, estimates suggest that there is great over-representation in juvenile institutions (compared to non-Native offenders);
- Native people (about 5 percent of Alberta's population) face many barriers in the legal system, including language and culture, ignorance about law and procedure, confusion about Native rights, and often the inability to pay fines.

This brief does not distinguish between status and non-status, or on/off-reserve youth, but lists anticipated effects of the YOA on Native youth in general. Some negative effects might include the following:

- new legislation will increase confusion, and may also result in greater number of Natives being incarcerated (with no employment, they cannot pay fines; there are no resources for alternative dispositions in most communities);
- more overcrowded facilities means less time and resources to meet the special needs of Native inmates, or to develop innovative programming; the resulting greater emphasis on custody rather than rehabilitation may lead to increased Native youth recidivism;
- urban Native youth who are often transient may not meet eligibility criteria for alternative dispositions;
- probation conditions may often be inappropriate to small isolated communities.

Some of the positive effects for Native youth may include greater cultural understanding by justice agents; more appropriate dispositions; and greater access to legal rights (including counsel and appeal).

Detailed suggestions are made regarding implementation of the YOA, grouped under three approaches: legal education (on a wide scale, aimed at all affected groups); in-court services; alternative and preventive programs developed and delivered by trained Native personnel. Some of the issues raised include the following:

- the courtworker model should be the heart of any new service programming;
- Native organizations are the best source of ideas for innovative programming tailored for Native juveniles (for example, by assigning young offenders to assist elders with their traplines, a community can combine probation and service programs in a culturally appropriate setting);
- Native carrier agencies (non-political), working in close cooperation with the Native community, would best deliver such programs;
- the new legislation will provide the opportunity for communities to become involved with new programming which could eventually affect the relationship between Native youth and the justice system, on the condition that resources and funding become available.

TITLE:

CONFERENCE REPORT. CIRCUIT AND RURAL COURT JUSTICE IN THE NORTH

AUTHOR:

J. Andrew Smith

PREPARED FOR:

Consultation Centre, Ministry of the Solicitor General

FUNDED BY:

Not applicable.

DATE:

March 29, 1984

LENGTH:

21 pages

PURPOSE:

A report on selected sessions of the Northern Conference on Justice, held in Yellowknife, Northwest Territories, March 11-16, 1984.

METHODOLOGY:

The author provides "impressionistic and interpretive accounts" of the conference sessions he attended.

SUMMARY OF CONTENTS:

The first part of the report summarizes sessions that dealt with the circuit court system in the Northwest Territories. This is good background material that provides an understanding of the northern justice system, its problems and limitations. One session at the conference was devoted to the YOA. Participants on the panel included:

- David Lough, Principal of District Vocational School, Happy Valley, Labrador;
- Michel Valée, Ministry of the Solicitor General, Ottawa;
- Douglas Miller, Department of Justice and Public Services, Yellowknife;
- Diane Doyle, Department of Social Services, Yellowknife.

The following areas of concern were expressed in the session:

- one-half of the corrections population in the Northwest Territories is under 24 years of age; 85 percent are Native; there is a lack of appropriately trained professionals and para-professionals to serve young offenders;

- the justice system relies too heavily on social services for dealing with children;
- there is a lack of treatment and custody facilities, especially in remote settlements;
- the circuit court system has a limited capacity to provide counsel to youths;
- community dispositions are a positive step towards community involvement.

No specific recommendations were put forward.

TITLE:

IMPLICATIONS OF THE YOUNG OFFENDERS ACT/ORDINANCE WITH RESPECT TO THE RIGHT TO COUNSEL IN THE NORTHWEST TERRITORIES

AUTHOR:

Douglas Miller, Executive Director, Legal Services Board of the Northwest Territories Department of Justice and Public Services

PREPARED FOR:

Northern Conference on Justice, Yellowknife

FUNDED BY:

Not specified.

DATE:

March 1984

LENGTH:

13 pages

PURPOSE:

To examine provision for counsel under the YOA.

METHODOLOGY:

Sections of the YOA pertaining to the right to counsel were reviewed from a legal perspective.

SUMMARY OF CONTENT:

This article gives a thorough examination of the Act in regard to the provisions it makes for the right to counsel for young offenders. This right to counsel is examined at all stages of procedure. Brief comparisons are made to the practice of providing counsel under the Juvenile Delinquents Act. Miller discusses the right to counsel in the context of the justice system available in the north. He raises issues and concerns that are pertinent to all northern youth, the vast majority of whom are Native children. Some of these concerns include the following:

- there is a lack of available counsel in the north; i.e. there are not enough lawyers;
- small communities are visited by circuit courts about once a month for a single day; youthful offenders may find little opportunity to confer with the duty counsel;

- since the present court system cannot accommodate language and cultural differences, how will it stand the additional strain of youths who require interpreters and culturally sensitive workers?

PART II: ISSUES AND RECOMMENDATIONS

OVERVIEW

Part II of this report is divided into two sections summarizing issues and recommendations found in the reviewed literature.

Issues

All 11 papers raise concerns about the impact of the YOA on young Native offenders. The consultative papers do not generally distinguish between issues that are directly concerned with the Young Offenders legislation and those issues that are more generally related to young Native offenders. This is understandable. It will remain very difficult to isolate issues that arise directly from the YOA until the Act has been fully implemented, and the experience of Native youths under the new system can be compared to their former treatment under the Juvenile Delinquents Act.

For the benefit of the reader, the authors of this report have divided the issues raised in the literature into two categories: those which pertain specifically to the YOA, and those which have a more general focus. For reasons explained above, it is often difficult to clearly separate the two categories and obviously there is some overlap. Several issues are emphasized in all the papers. To reflect this emphasis, the issues which were raised most frequently generally appear first. Three common themes merge in all the papers: information and education; funding; and the role of Native culture.

During the consultation process, many groups found it difficult to respond to this important legislative initiative due to their lack of detailed information about the YOA and the Act it was replacing. There is a great need for continual education about new legislation that will affect Native people, as well as public education regarding legal rights and obligations, including those specific to the YOA.

There is a general consensus that the YOA could have positive benefits for young Native offenders. These will only be realized if adequate funds are provided specifically to meet the special needs of Native youth.

A concern with Native culture and the Native reality pervades all of the literature. Many groups are acutely aware of the disadvantaged position of Native young offenders vis-à-vis non-Native young offenders. There is agreement that Native problems are best dealt with by Native people themselves. Consequently, strengthening the role of the Native community in the development and implementation of the youth justice system is presented as a major objective in all the papers.

Recommendations

Only three of the papers reviewed list separate recommendations. The Canadian Aboriginal Justice Council (C.A.J.C.) makes 20 specific recommendations, several of which consist of suggestions for inclusion in the then-proposed young offenders legislation. Many of these are no longer relevant, and are therefore ommitted from this report. The Ontario Native Council on Justice (O.N.C.J.) presents recommendations that have been developed by a working committee on young offenders and approved by their membership. The Native Counselling Services of Alberta (N.C.S.A.) also present a separate summary of the recommendations included in their brief.

Most of the other eight papers contain some recommendations within the body of the work. Recommendations that are directly stated are included in this section; those that are only implied have been summarized under "Issues". Again, recommendations made by different groups were very similar.

To help the reader grasp the thrust of these recommendations, the authors of this report have combined and summarized them. Recommendations that are universally presented are followed by the words "all groups" in parentheses. Recommendations that were specific to one group or paper are followed by the initials of the group or author's name, in parentheses. This notation should help the reader identify the scope of the different recommendations.

Some recommendations apply specifically to the YOA; others are more general. The authors of this report isolated the YOA-specific recommendations with the assistance of Ms. Fern Jeffries, Co-ordinator, Young Offenders Unit, Ministry of the Solicitor General. Recommendations that were identified as applying to the YOA are listed separately from general recommendations.

ISSUES

Issues that were identified as being specifically linked to the YOA are summarized below.

Funding

All of the papers raise the question of funding. Concerns in this area include the following:

- provision of adequate funding to enable Native organizations to inform their members and staff about changes in the youth justice system;
- funding for all levels of government (federal, provincial, Native) to develop and implement programs specifically designed to meet the needs of Native youth;
- shared responsibility for the Young Offenders Act will require co-ordination between departments; the respective roles of all agencies must be clearly delineated, and cost-sharing agreements must be established so that services to Native youth are not neglected;
- once formula financing is in place, the cost of expanding or enhancing programs will have to be absorbed by the provincial and territorial governments. It is anticipated that it will be difficult to change the formula for arriving at base funds and governments will be hard pressed to raise additional revenues required to meet the specific needs of Native youth.

Public Education

The literature emphasizes the need to inform Native communities about the Young Offenders Act. Public education must be delivered by Native people who know their communities and language. It should focus on the content of the legislation; the rights of the offender; the parents' expanded role; alternatives to charges, fines and incarceration; and how to develop appropriate community resources. Several groups are identified as being a high priority for educational initiatives, including high school students, children who migrate to cities from remote reserves, and parents of young offenders who need to know what is required of them under the Act.

Training and Education for Workers and Professionals

Native groups are apprehensive that Native youths are presently ill-served by justice and social-service professionals and para-professionals due to cultural differences. Training and education are repeatedly identified as crucial. The training most frequently suggested in the consultative papers pertains to the YOA itself. It is unanimously felt that this training must be provided in the context of Native culture.

Increasingly, Native people are taking greater responsibility for education, economic development and social services. Many groups question whether they will be funded/allowed to provide training and education about the impact of the YOA on their children.

Some papers suggest the hiring of Native people on a preferred basis to provide services related to the YOA. Many benefits are expected to ensue from increasing Native staff, such as:

- positive role modelling for young Native offenders;
- greater potential for service continuity in the north;
- improvement of Native people's ability to take responsibility for their children's lives.

Native Community Input

All the papers raise issues regarding the Native community's ability to influence the treatment of Native youths under the YOA more than under the J.D.A. Organizations and communities want to be involved in on-going policy development and in the implementation of the Act. They also want to undertake program development in their own communities, and evaluate and assess juvenile justice programs and procedures. There is a general consensus that Native youths must be dealt with in a manner that is culturally appropriate, and that only Native people can determine what is appropriate to their cultures.

Court Procedures and Services

The YOA establishes youth courts under provincial jurisdiction. Several papers raise the possibility of difficulties in this area, due to problems such as the following:

- Indian communities and organizations often resist provincial jurisdiction;
- provincial court judges are not seen as sensitive to Native needs;

- provincial court facilities are not available in remote Native communities and reserves.

The YOA sets out the designations and functions of youth workers. At present, similar services are provided by provincial probation officers and counsellors. In many provinces, Native courtworker programs provide services to Native clients in the criminal and, occasionally, in family and juvenile court. Most of the papers emphasize the need for Native courtworkers specially trained to work with youth. This is seen as an urgent requirement for a number of reasons, including the following:

- Native youth face special obstacles dealing with the judicial system, and Native youth courtworkers would ensure them fair treatment under the YOA;
- if increased demand overloads an already inadequate legal-aid system, Native youth courtworkers would be even more necessary to provide support, explanations and information when legal-aid lawyers are unavailable; to help private lawyers in cases involving Native youths; and to become involved in supervising and developing community sentencing alternatives.

Duties and functions of Native youth courtworkers are included in some detail in many of the papers. These are usually very wide-ranging and all-encompassing, and often include interpretation of language; assistance in pre-sentence and pre-disposition report preparation; speaking on behalf of the client; helping the client obtain counsel; developing and supervising sentencing alternatives; and liaising with other groups.

Some papers raise the apprehension that centralized courts may undermine the basic principle in the Act regarding increased responsibility and accountability of parents and community. The development of local courts (e.g. appointment of Justices of the Peace under section 107 of the Indian Act), or a circuit court system would provide parents and community members in remote communities with a greater opportunity for involvement in the judicial process and dispositions regarding young Native offenders from their own communities.

Prevention and Diversion

These issues are usually closely linked in the consultative papers. Many papers suggest that prevention and diversion should be an integral part of the implementation of the YOA. However, there are at present enormous gaps in services, in particular, there is a need for cooperation between courts, police and community. The issue of communication problems between the police forces and the Native communities is raised; it is also suggested that the attitudes of police officers towards Natives must change. Young Native people must learn to respect the police, although problems between police and Native communities have in the past made this difficult.

Diversion programs as provided for in the YOA are, at present, available only for adult offenders on a small scale and often as demonstration projects only. It is necessary to make these programs appropriate for young people, and available widely in rural and urban communities throughout the country. Many of the papers also raise the important point of the need for knowledge about alternatives; communities, parents and youths must be made aware of diversion possibilities to take advantage of the provisions in the YOA regarding such programs.

Dispositions

It is generally agreed in the literature reviewed that pre-disposition reports must be made by someone who is sensitive to Native needs and conditions. The issue of non-Native judges dealing with Native youth is addressed, and suggestions are made regarding cultural and community orientation training for judges to enable them to make appropriate dispositions for young Native offenders.

One paper raises the possibility of there being conflict and rivalry in some communities regarding who will handle the dispositions: local settlement councils, band councils, churches, or some other group. Judges will have to be aware of what services and facilities are available in each community, particularly in the north. If funds do not become available to enable the implementation of community dispositions, judges would have to sentence youths to open and closed custody facilities in spite of the philosophy of the Act. These do not exist in all areas of the country. In the Northwest Territories, for example, trailers and single-family residences would have to be used in small communities.

Another issue refers to possible difficulties Native youths may encounter in satisfying eligibility criteria for alternative dispositions, since many are out of school, live away from their parents, and may be transient. Probation conditions imposed on Native youths may be impossible to keep, if they are inappropriate to local conditions. For example, in a small community, it may be impossible not to associate with individuals with previous criminal records, or to report to a distant probation office without transporation.

Judiciary discretion can be advantageous if it permits sentencing to be tailored to individual cases, but there are also potential dangers in discretion.

The use of alternative measures, for example, is totally at the discretion of judicial officials (police, prosecutors, judges). Guidelines for the use of discretionary powers vis-à-vis Native juveniles are necessary.

There was some concern over the definition of a "responsible person". Whose standards of "responsibility"will be applied? With regard to on-reserve status people, band councils have not been recognized as legal entities in Canadian law. This makes it very difficult for a band council to seek custody over children. Would a council be deemed a "responsible person" in YOA matters?

The YOA (section 4(1)(a)) provides for the use of alternative measures rather than dealing with juveniles through judicial proceedings. Such alternative measures must be authorized by the Attorney-General or his appointee in the province. Status Indians are concerned about provincial jurisdiction over Indian youths.

Those papers which raised the issue of fines felt these would be emphasized over sentences, and Native children would usually be unable to pay. Jailing children for inability to pay fines is viewed very negatively.

<u>Legal Representation</u>

There is a general fear that Native youth will not receive the representation to which they are entitled under the YOA due to:

- language and cultural difficulties;
- unavailability of counsel, especially in northern, rural and remote areas;

- inadequate Native courtworkers to assist juvenile Natives in obtaining counsel;
- poverty which prevents many Native youths from obtaining counsel;
- legal aid services being inadequate to service all Native youths, particularly in the north where existing legal aid clinics cannot handle the present demand. Many predict that the implementation of YOA will increase the demand for subsidized legal representation;
- insufficient funds to expand legal aid services to meet demands;
- access to counsel not being a statutory right at all points in the process; e.g. when child agrees to alternative measures.

Statistics and Baseline Data

Statistics and baseline data on youthful offenders are not kept by ethnicity. However, it is widely recognized that Native youths are grossly over-represented in the judicial system (documented by Native Counselling Service of Alberta).

YOA provides for disclosure of records for research and statistical purposes. Data on Native juveniles is urgently needed to document their involvement, plan and justify program needs, and evaluate program results.

Further research is needed to identify procedures and facilities used under the YOA including information on the provision and location of Youth Courts; location of open and secure custody facilities; access of Native youth to service in residential facilities; and networks and referrals among community organizations working to meet the needs of Native offenders.

Issues Specific to Status Indians

Canadian law has created different groups of Native people (status, non-status, Métis and Inuit). Status Indians are under the jurisdiction of the federal government and are governed and administered by the Indian Act. They are also subject to certain provincial laws. Any extension of laws or services to status people by provincial governments raises issues of jurisdiction and funding responsibilities.

There is a great deal of concern in the Status Indian community about the implementation of YOA because it is administered by the provinces. Specific concerns include:

- YOA excludes less-serious, non-criminal offences currently under J.D.A. However, the Indian Act, as a Federal Act falls under YOA and, consequently, will include non-criminal offences for status youths; e.g. liquor-related offences, band by-laws;
- YOA repeals section 120 of the Indian Act regarding truancy. Will this ensure that status children will be treated the same as other children? Will it leave a jurisdictional gap?

The concept of Indian self-government clashes with the existing line of authority outlined in the YOA. There is a concern that YOA places the administration of juvenile justice clearly in the hands of the proinvical bodies. For example, band by-laws respecting juvenile justice might be affected by provincial legislation; band police might become increasingly tied to the provincial legal system; and the ability of band councils to take any initiatives vis-à-vis juvenile offenders might be curtailed.

Issues that were identified that have a more general focus are summarized below.

Cultural Identity

The importance of young people having a strong Native identity is frequently mentioned in the papers.

Lack of a strong self-identity is seen as a main feature of young people in trouble with the law. This imbalance and disharmony within the individual becomes externalized in other behaviour that gets young people into trouble.

Involvement of young people in cultural activities (pow wows, singing, dancing, ceremonies, discussion groups, crafts, etc.) was offered as a solution to many of the identity problems young people face.

Developing and encouraging cultural identity enables youth to build stability and confidence and be successful in their own and any other cultures.

Community Input

There is a great desire on the part of Native people to retain control and authority over the welfare of their children. A holistic, integrated, culturally sensitive approach would prove most useful in developing services and programs for young Native offenders that are appropriate and community-based.

Native organizations are a good source of creative ideas for developing innovative programs tailored to the needs of Native juveniles.

The literature raised several questions regarding the scope of Native control over young Native offenders:

- what role will Native communities/band councils play in dealing with juvenile justice?
- is there a possibility of developing a Native justice system, tribal courts, customary law, an expanded role from band police, other community-based services?
- how will jurisdictional disputes affect Indian rights to self-government?
- will juvenile justice be an area of Native community control?

Prevention, Diversion and Alternate Measures

There was a general consensus in the papers that only prevention at the community level will really work to alleviate the problems of young Native offenders.

Youth programs need adult volunteers to get involved in doing prevention activities through cultural, recreational and social programs, such as Li'l Beavers (off-reserve, through Friendship Centres).

At present, programs available on a limited basis should be expanded to greater numbers of young children and also to include adolescents. This would require more staff and resources.

Prevention programs could be integrated into a number of services; e.g. community legal education, drug and alcohol counselling, etc.

Diversion programs will only be used if they are available in the community; this poses problems for reserves and remote communities with limited facilities and services. A great deal of developmental work will be needed to establish diversion programs for Native youth.

Programs should focus on the development of cultural pride, and promote a positive Native self-image in young people. Community-Based Wilderness Camp Programs would accomplish many goals, including increased responsibility, self-esteem and self-discipline, greater community involvement and responsibility, as well as reinforcing positive values and patterns of behaviour.

The Consultation Process

Many groups found it difficult to be involved with the consultation process because of:

- lack of funding;
- lack of information of the new Act;
- unfamiliarity with the departments involved and the consultation process;
- general lack of confidence in their ability to make an impact on decisions because of limited success with past efforts.

Lack of community involvement is seen as a weakness in the old justice system. More consultation is needed with the Native community to develop and implement legislation to avoid this problem.

RECOMMENDATIONS

Recommendations which were identified as specific to the YOA are listed below:

1. Funding must be made available to Native communities and organizations to carry out education and training, and to develop and implement programs provided for in the YOA (all groups). Additional funding is needed to establish holding facilities for Native youth, for legal aid services, and for other services related to the YOA included in the recommendations below (all groups).
2. Young Native offenders need courtworkers to meet their specific needs as Natives and as young people (all groups). Native people, supervised by Natives, should be appointed youth workers (under section 37 of the YOA) wherever 25 percent or more of the dockets are Native (O.N.C.J.). Native youth courtworkers should be available in any youth court where 25 percent or more of the dockets are Native (O.N.C.J.). Native courtworkers for adult courts should not be used as youth courtworkers; they must receive special youth training (C.A.J.C.). A separate Native Youth Courtworker Program should be set up as soon as possible. Such a program could be involved in a number of supplementary liaison, prevention and supervision activities, depending on community needs (N.C.S.A. and O.N.C.J.).
3. The YOA guarantees to youths the right to counsel; it is recommended that resources and procedures be put in place to ensure that young Native offenders have access to legal advice and representation (all groups). More Native legal clinics, regionally-based duty counsel, major expansion of the present legal aid plans to all areas, or replacement by an alternative legal aid system should all be considered (O.N.C.J.). Youths should be informed of their right to counsel in clear and meaningful language; the police should help young offenders to obtain counsel; no statement should be requested from young offenders in

remote communities served by circuit courts until the youth has had an opportunity to confer with counsel (Miller).

4. Native organizations and communities should be involved in planning, developing and implementing programs for Native youth, especially sentencing alternatives and innovative programs (C.A.J.C. and O.N.C.J.). A four-phase implementation strategy should be developed through consultation with Natives, Native communities and Native organizations to include public education; needs assessment and planning; staff development, training and evaluation; and review and assessment (O.N.C.J.).
5. Widespread public education programs, using culturally appropriate methods and materials, and carried out by qualified Native people and organizations should provide information to Native communities about the YOA and its specific implications for Native youth (all groups). Such programs should especially be directed to high school students (C.A.J.C.). Police should also be active participants in any community education programs regarding the YOA (O.N.C.J.). Topics should include the contents of the legislation, the rights of offenders, the role of parents, alternatives to charges, and sentencing options (N.C.S.A.).
6. All justice personnel (including judges, lawyers, police officers, and officers of the court) should receive special education about the specific needs of young Native offenders, Native culture and traditions (all groups). Non-Native youth court personnel and police officers should be required to take such training wherever Natives are 25 percent or more of the dockets (O.N.C.J.). Only medical and psychiatric personnel trained in cross-cultural work should make assessments of young Native offenders (C.A.J.C.). Special training programs for people working with young Native offenders should be developed in consultation with Native organizations should be delivered by accredited institutions, and should be considered part of workers' professional development (O.N.C.J.).

7. Alternative dispositions should be used more widely than fines and jail sentences. Community-based and culturally appropriate alternatives should be developed, including restitution and community work orders; adequate supervision to permit community-based probation and alternative dispositions; wilderness camps and employment alternatives (all groups).
8. The attendance of parents at youth court should be facilitated (all groups). To ensure parental attendance, notices should be served in person, rather than mailed, and interpretation should be provided for the parents if required (O.N.C.J.). The government should pay the expenses of parents who could not otherwise attend (C.A.J.C.).
9. To facilitate the involvement of Native communities in the juvenile justice system, as intended in the YOA, youth court should be held in the community where the offence was committed (O.N.C.J.). Appropriate detention facilities must be made available on reserves and in remote Native settlements, to ensure that young Native offenders can be detained in their home communities when detention is necessary (C.A.J.C.).
10. Youth court judges should be advised by lay representatives from Native communities (O.N.C.J.). Northern juvenile court commitees and British Columbia's lay panels are recommended as models (C.A.J.C.).
11. In considering the suitability of an adult to act as "suitable adult" under section 11(7) of the YOA, the court should consider the relationship of the young person to the adult, the adult's understanding and appreciation of his/her role in assisting the youth, the nature and complexity of the issues involved, and the circumstances surrounding the appearance (Miller).
12. Native regional review boards should be established according to section 30 of the YOA. Institutionalized young Native offenders should receive special assistance with appeals and review board hearings (O.N.C.J.).

13. To assess and monitor the impact of the YOA on Native youth, research is needed in several areas (all groups). Statistical information should be available to pinpoint problems specific to Native youth, and to evaluate the effectiveness of programs aimed at young Native offenders (Nahwegahbow and Brant). To this end, baseline data is required on numbers of Native youths in existing facilities; numbers of Native youths charged and found not guilty; types of charges and dispositions; points of contact between the young Native offender and the justice system; proportion of Indian, non-status and Métis youths in the general population and in the criminal justice system (all groups).
14. The concept and practice of tribal youth courts, of lay panels to advise judges, and the possibility of establishing a Native justice system in Canada should be explored (O.N.C.J. and Nahwegahbow and Brant).

Recommendations of a more general nature are listed below.

1. It is necessary to establish other types of programs, including the following:
   - alcohol and substance abuse programs, and effective treatment and prevention programs (all groups);
   - pre-charge diversion programs (O.N.C.J. and C.A.J.C.);
   - programs similar to Li'l Beavers, with expanded mandates and trained staff (O.N.C.J.);
   - Native liaison programs for institutionalized young offenders (O.N.C.J.);
   - Native family life improvement demonstration programs (O.N.C.J.);
   - innovative youth services such as wilderness camps (O.N.C.J. and C.A.J.C.).

   Such programs should be independently assessed (O.N.C.J.). Prevention, as early as possible, should be an integral part of any program attempting to reduce the numbers of Native youths in conflict with the law (all groups).
2. Native Citizens Police Review Committees should be established to advise on the recruitment and selection of police officers, and to monitor police treatment of Native youth (O.N.C.J.). An enquiry into police brutality in northern Ontario is requested (O.N.C.J.).
3. Research is needed into the areas of provincial offences, and offences by 7-11 year olds, not covered under the YOA. An inventory of Native-operated services (such as group and foster homes) should be made (O.N.C.J.).

PART III: FURTHER RESEARCH AND PROGRAM NEEDS

This final section of the report is entirely the work of the authors. Based on the literature reviewed, the authors have identified a whole variety of suggestions for research and programming. These suggestions have been developed into two separate priorized lists. The two categories, "Baseline Data and Statistics" and "Development of Programs and Services" are discrete and separate; neither one is more important than the other.

Most of the consultative papers suggest directions for further research based on their assessment of needs in this area. The authors of this report have had the advantage of being able to consider the suggestions made in all of the papers. From this perspective we have identified areas which appear, in our estimation, to be most important for research in the immediate future.

Research recommendations made by the authors should not be interpreted as being directed at any specific body or level of government. They are merely presented as directions that could be funded and undertaken by any organization or department.

Native organizations in Canada are well aware of their needs in relation to Native youth and the justice system. Our review of the literature shows that these organizations are very clear in defining these needs, and make concrete and realistic programming and service suggestions.

Native communities desire to become actively involved in services to their children, not only in service delivery but also in making the policy and programming decisions which shape and influence service directions. Native parents and communities, like non-Native parents and communities, definitely want to have control over situations which affect the welfare of their children.

The literature clearly indicates that most organizations are also aware of the structural features which are at the root of the disproportionate involvement of Native children in the justice system, and concerned about the complexity of the problems faced by Native youth and those who wish to assist their development (for example, jurisdictional issues which halt service delivery in many reserve communities).

In several areas, services to young Native offenders are already in place, or ready to implement. Some of these programs are at the stage where they can benefit from expansion, or modification of standard models to accommodate regional variations. Such programs no longer need to be "researched".

Without assurances of continued funding for adequate implementation of various service models, all research and planning, and support of demonstration projects may well prove futile in meeting the needs of young Native offenders.

The review of the literature reveals two avenues for further research: baseline data and statistics, and program development.

Baseline Data and Statistics

Some basic facts regarding young Native offenders are already well documented. We know that they are disproportionately represented at all stages of the criminal justice system; that they are frequently removed from home communities; that they are economically disadvantaged; and face many barriers in dealing with the justice system. Although additional information is always useful, there is at present enough data to justify the need for special programs and services for young Native offenders.

Baseline data is needed, however, to:

- monitor whether the implementation of the Young Offenders Act improves or aggravates the problems of young Native offenders;
- assess specific programs;
- document local and regional variations;
- establish the needs of specific groups (e.g. females, 17-year-olds, Métis, etc.) within the category of "young Native offender".

We, therefore, recommend that research be undertaken to collect and analyze statistical data on:

- comparative Native and non-Native involvement with all stages of the justice system governed by the Young Offenders Act, including contact with police, Native courtworkers, and youth workers, charges, dispositions, diversion programs, incarceration, probation;
- data should be broken down by gender to allow comparison of treatment of male and female youths under the Young Offenders Act;
- statistics should isolate age groups, reveal regional differences, and facilitate comparison between localities (for example, rural/urban; reserve/non-reserve);
- data should allow for comparison and assessment of the impact of the Young Offenders Act on areas with, and without particular types of programs, and to permit careful consideration of structural factors when making such comparisons (for example, do youths in an area served by Native youth workers get legal counsel more often than those without that service, and how does this relate to the income level of a particular youth/community?).

Development of Programs and Services

The literature revealed obvious need sufficient to justify some immediate responses in terms of programs and services to young Native offenders. Programs need to be developed to at least provide a minimal level of service to all Native youth in conflict with the law, and should primarily be directed at reducing over-representation

and ensuring the guaranteed rights described in the Young Offenders Act are protected (for example, ensuring all children charged under the Young Offenders Act have legal counsel).

Any research in the area of program development should also be done in the context of encouraging community-based, Native-determined, Native-specific and Native-controlled social services. As mentioned above, without assured funding for adequate implementation, program planning and development on paper may lead to no improvement in services to young Native offenders or their families.

It would be a mistake to wait until all the data mentioned under Baseline Data and Statistics is collected before beginning research on program development. We, therefore, recommend that a data collection component be integrated into new programs wherever feasible; new programs can also be developed as part of "action-research" or "participatory research" projects, so that each approach contributes to the other.

Based on the above considerations, and on our review of the literature, we recommend that the following program development directions be supported:

1. Although more developmental research on Native Youth Courtworker Models is not a pressing need, what is needed is funding to implement these adequately and widely, and components to track statistical data, assess and fine-tune the model in each region and for the specific needs of each community;
2. Also needed are supplementary models and programs to complement the role of Native youth courtworkers, so they are not faced with having to provide for all the needs of juveniles in the justice system;
3. Training programs for Native youth courtworkers also need to be developed;
4. Helping communities set up diversion, innovative and alternative disposition programs in their own areas should be supported. Due to regional variations, several models specific to the needs of different communities should be developed, implemented and assessed;

5. The concept of a Native system of justice is held as an ultimate goal by many Native groups. Research should be directed towards ways in which aspects of customary law could be integrated into the Canadian justice system, beginning with lay advisory panels; juvenile court committees; application of customary law as an alternative disposition; use of band by-laws; and development and implications of establishing full tribal courts in Canada;
6. Research in this area should definitely be undertaken and/or controlled by Native organizations; and should involve cross-national comparisons, and investigation of similar systems in other countries.

As a final point, we would like to repeat our apprehension that, without assured funding for basic social and legal services in a community, demonstration projects will be doomed to failure because they will, by necessity, stretch their capacities to the limit in an attempt to fulfill the basic urgent needs of Native children and youth.

ANNOTATED BIBLIOGRAPHY

Canada, Department of Indian Affairs and Northern Development

1980 Indian Conditions: A Survey. Ottawa, Indian Affairs and Northern Development.

A statistical overview of Status Indian conditions in Canada, including some data on Indian youths.

Canada, Ministry of the Solicitor General of Canada

1982 The Young Offenders Act, Highlights. Ottawa, Ministry of the Solicitor General.

A basic summary of the significant sections in the Act, presented in the format of questions and answers. English and French, 25 pages.

Canadian Aboriginal Justice Council

1978 Report--Youthful Offenders Project. Ottawa, Health and Welfare.

Report of a project intended to seek comment from the Native community, nation-wide, regarding proposed legislation to replace the Juvenile Delinquents Act. Contains a report for each consultation, and a summary of comments and recommendations gathered during interviews with groups and individuals. Includes a separate section on the Inuit point of view. Summary of recommendations is also included. 36 pages plus appendices.

Central Toronto Youth Services

1982 Youth Opportunity Action. Toward Ontario's New System for Young Offenders. Toronto, Central Toronto Youth Services Foundation.

Presents a summary of the YOA, focusing on implications for service delivery and planning. Includes statistical and analytic information regarding expected impact in relation to policing, child welfare, courts, sentencing and detention. No breakdown is given of Native and non-Native youth or services. The discussion is specific to Ontario's social-service delivery system, but many of the questions raised apply across the country. 67 pages plus appendices and bibliography.

HAVEMAN, PAUL; FOSTER, LORI; COUSE, KEITH; and MATONOVICH, RAE

1984 Law and Order for Canada's Indigenous People. Regina, Prairie Justice Research Consortium, School of Human Justice, University of Regina.

This is a review of recent research literature relating to the operation of the criminal justice system and Native people. Native involvement in the justice system is discussed in the context of several theoretical frameworks. Although it contains only limited references to Native youth, it does provide useful information on various Native justice programs. 176 pages plus comprehensive bibliography.

JOLLY, STAN

1983 The Kids Are Hurting. Fact Sheet on the Disproportionate Involvement of Indian Young People in the Juvenile Justice and Child Welfare Systems of Ontario. Toronto, Ontario Native Council on Justice.

This discussion paper presents a summary of some basic statistics regarding over-representation, identifying significant age and regional variations. Suggests further research directions. Raises some general questions regarding the source of the problem and possible directions for change. 11 pages, references.

LAPRAIRIE, CAROL PITCHER, and CRAIG, BARBARA

1984 Native Criminal Justice Research and Programs: An Inventory Ottawa, Research Division, Ministry of the Solicitor General.

This inventory of current research and programming activities relating to criminal justice and Canadian Native people is a good resource for identifying current research and programs. Each item is briefly described, and includes a contact person or organization. A 28-page section on juveniles lists current programs under the categories: research; programs; developmental projects; and courtworkers. Many items are specific to YOA. 193 pages.

LAPRAIRIE, CAROL PITCHER; and GRIFFITHS, CURT TAYLOR

1982 "Native Indian Delinquency and the Juvenile Court: A Review of Recent Findings". Native People and Justice in Canada, Special Issue, Part 1. Canadian Legal Aid Bulletin. January, Vol. 5, No. 1, pp. 39-46.

This article summarizes research findings based on an empirical study, over a two-year period, in a mid-north Canadian town with a 10-15 percent Native population.

The study aimed to identify apparent differences between Native and non-Native groups regarding disposition received and information presented in Juvenile Court. The findings include severe disparities between the two groups, including Native over-representation. Age, gender and socio-economic differences were also identified. The authors raise several questions regarding the administration of the YOA in the light of these findings. 8 pages, some references.

LAPRAIRIE, CAROL PITCHER

1983 "Native Juveniles in Court: Some Preliminary Observations". Thomas Fleming and L. A. Visano, editors: Deviant Designations: Crime, Law and Deviance in Canada, Toronto, Butterworth and Company (Canada) Ltd.

Based on the above-described empirical study, this article begins with an overview of Native people in the criminal justice system, placing their specific condition within a theoretical framework which suggests explanations for Native over-representation. The findings of the study confirmed socio-economic disparities between Native and non-Native juveniles, and revealed the inability of the criminal justice system to address these structural inequalities. Includes statistical summaries of research findings. The author suggests further research directions, and discusses implications of the findings in relation to the new Young Offenders Legislation. 14 pages, including bibliography on Native people and the justice system.

LOUCKS, BRYAN

1983(a) "The Inner Circle"--Staff Development and Community Education and Young Offenders Act Bill C-61. Toronto, Ontario Native Council on Justice.

This report is based on consultations with Native organizations, members of the O.N.C.J., regarding the development of community education plans about YOA. It covers both status and non-status concerns, and includes basic information about YOA and the young Native offenders in Ontario. Detailed project plans for a number of organizations are included. 23 pages, plus 110 pages of appendices.

1983(b) The Young Offenders Act: An Opportunity For a New Beginning. Toronto, Ontario Native Council on Justice.

This report consists of a document prepared by Loucks in 1982 regarding the Ontario consultation paper on YOA, slightly amended. It includes recommendations made by a working group on Young Offenders (based on that document), revised and adopted by the Ontario Native Council on Justice in February 1983. 57 pages, plus one appendix listing innovative approaches.

1982 Preliminary Response to the Ontario Consultation Paper On Implementing Bill C-61, The Young Offenders Act. Toronto, Ontario Native Council on Justice.

This preliminary response addresses three areas identified in a community consultation process as bearing most immediate significance in relation to the Ontario Consultation Paper. These are in-court representation; dispositions; and diversion/prevention. The material focuses on development of programs, and briefly mentions jurisdictional and structural issues. The response is based on a cross-section of opinions, which are summarized and lay the base for possible recommendations. 49 pages plus appendix.

LOUCKS, BRYAN; and TIMOTHY, ARNETTE

1981 Justice-Related Children and Family Services for Native People in Ontario--A Discussion Paper, Toronto, Ontario Native Council on Justice.

The Ontario Native Council on Justice generated this discussion paper as the first step in encouraging Native people of Ontario to consider issues related to juvenile justice and child welfare. Most of the material relates to child welfare, but there is a separate section on the implications of the YOA. It presents background on a number of issues, and lays a base for further discussion among member organizations. 57 pages plus 6 appendices, which include an 8-page bibliography organized by topic area, a copy of the U.S. Indian Child Welfare Act, a copy of the Spallumcheen Band's By-Law for the care of Indian children.

MCCARNEY, ROSEMARY A

1982 Legal Services for Native People in Canada, Ottawa, Law Information Council.

This report, based on a 1980 survey, outlines the involvement of Native people (status, non-status, Métis and Inuit) with the justice system. Part I describes Native legal service needs in urban, rural and on-reserve locations; the needs of Native women and children are specifically addressed. Part II briefly describes legal services directed to Native people. Part III describes Native legal services in the U.S.A. which could serve as models for developing Canadian programs.

A brief section on Native juveniles is based on the Juvenile Delinquents Act and does not address YOA. However, many issues raised are still relevant. The overview makes a connection between social welfare issues and the over-representation of Native children in the courts. Includes a selected bibliography, references to academic research and Native-initiated studies. 102 pages.

MILLER, DOUGLAS

1984 Implications of the Young Offenders Act/Ordinance With Respect to the Right to Counsel in the Northwest Territories.

Prepared for Northern Conference on Justice, Yellowknife. This is a review of sections of the YOA pertaining to right to counsel in light of the justice system available in the north. Issues are raised pertinent to all northern youth, most of whom are Native. Includes some recommendations. 13 pages.

NAHWEGAHBOW, DAVE; and BRANT, DANIEL

n.d. C-61 The Young Offenders Act, Native Issues--An Overview, Part I (Draft). Ottawa, Ministry of the Solicitor General.

This paper is general and national in scope, focusing primarily on the anticipated impact of YOA on status Indians. It discusses the implications of divided jurisdiction, and importance of various sections of the Indian Act in relation to the YOA. Includes no separate recommendations. 48 pages.

Native Canadian Centre of Toronto

1983 The Young Offenders Act: Implications and a Viable Model for the Native Community in Toronto.

This document reports on a study of the effects of Bill C-61 and an assessment of the needs and viability of a Juvenile Courtworker Program for the Native community of Toronto. It includes a brief overview of YOA and summarizes some of the data on Native people and the criminal justice system. A two-pronged approach to meeting the needs of the Native young offender is suggested. An implementation plan and specific recommendations are also included.

It contains the report of a study carried out jointly with the Native/Canadian Relations Theme Area, York University, which assessed the impact of the YOA on the Toronto Natives, and the implications for the Native courtworker Program. 13 pages plus 110 pages of appendices.

Native Counselling Services of Alberta

1984 Proposal For A Juvenile Courtwork Program, Edmonton, Native Counselling Services of Alberta.

This is a project proposal requesting financing of the first phase of a three-year demonstration project. It includes an overview of the problems Alberta Native people encounter with the juvenile justice system; some documentation regarding the service needs of young Native offenders and program strategies and directions. 27 pages plus 2 appendices.

1981 Brief to the Committee of Justice and Legal Affairs Concerning the Proposed Youthful Offenders Act, Edmonton, Native Counselling Service of Alberta.

This brief focuses on the situation of the young Native offender in Alberta, including estimates about over-representation. It lists anticipated negative and positive effects of YOA on Native youth. Detailed suggestions are made regarding implementation in the areas of legal education, in-court services and alternative and preventive programs. The courtworker program is presented as the most suitable core for any network of services. 15 pages plus appendices, references and summary of recommendations.

Ontario Native Women's Association,
Ontario Federation of Indian Friendship Centres,
Ontario Métis and Non-Status Indian Association.

1983 Remove the Child and the Circle is Broken: A Response to the Proposed Children's Act Consultation Paper. Presented to the Minister of Community and Social Services.

In response to the proposed Ontario Children's Act, the three groups have anticipated the potential impact on Native children of Ontario. Part I critiques the proposed legislation as it would affect status, non-status and Métis children, prepared by Butch Plante for the Ontario Métis and Non-Status Indian Association. Part II, prepared by Jessica Hill for the Ontario Native Women's Association reports on child-welfare workshops held in London, Thunder Bay, Kenora and Sudbury, and includes a legal overview by lawyer Terry Vise. Part III outlines service delivery in the province, prepared by Myrelene Ranville for the Ontario Federation of Indian Friendship Centres, and includes case studies of Native children in care. Part IV summarizes concerns, options and recommendations.

Although the report does not directly address justice issues, it could contribute to an understanding of a Native perspective on social services in the province, to which YOA implementation strategies will be closely tied. 163 pages.

SMITH, J. ANDREW

1984 Conference Report--Circuit and Rural Court Justice in the North, Ottawa, Ministry of the Solicitor General.

This is the report of a participant on selected sessions of the Northern Conference on Justice held in March 1984. There is a brief summary of sessions regarding the circuit court system in the Northwest Territories, and a summary of concerns arising from the session devoted to the YOA. 21 pages.